



Defending Rights, Strengthening Voices for Functional Democracy: Freedom of Association and Peaceful Assembly

Human Rights Platform Democratic Rights Monitoring Report

January 2022- December 2022



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**İnsan
Hakları**
Platformu
Human Rights Platform

**Freedom of Association and
Right to Peaceful Assembly** in the northern part of Cyprus
January 2022 - December 2022

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EXECUTIVE SUMMARY

The Human Rights Platform (IHP) has compiled this initial report with the aim of illuminating the current state of the freedom of association and the right to peaceful assembly within the framework of democratic rights in the northern part of Cyprus. The report not only examines these rights in the context of existing 'legislation' but also assesses their actual implementation. Scrutinising the infringements that occurred during 2022, this study intends to serve as a reference tool for future advocacy initiatives centred on these issues. The report is also envisioned as a foundation for subsequent monitoring studies to be conducted in the years ahead.

According to data from the 'central district governorate', there are 1,185 registered associations in the northern part of Cyprus as of 2022. There are also 74 charities and 452 foundations. Although the number of registered civil society organisations (CSOs) is high, a significant number of these organisations remain inactive. Over recent decades, the number and societal impact of civil society organisations (CSOs) have increased due to the grants and technical support from the European Union (EU), enabling these CSOs to employ professional staff, improve their organisational capacities and advance their human rights-focused work. However, these CSOs still only make up a small portion of the civil society and their presence has yet to reach the desired scale.

The monitoring study conducted on this issue revealed that the enabling environment for freedom of association and civil society development was unfavourable in terms of the relevant 'legislation' and its implementation, access to funds/resources, and the absence of civil society participation in decision-making mechanisms. The report's 'Conclusions and Recommendations' section presents detailed information regarding violations of these rights and restrictions. In a broader sense, severe restrictions were identified concerning 'foreigners' access to the right to freedom of association. Furthermore, although there are a considerable number of foreigners living in the northern part of Cyprus, there is no registered association to represent them. Lack of resources in 'district governorates', which are the 'competent authority' under the 'law', and differences in implementation between 'regions' make it difficult for civil society to exercise this right. Specifically, the fact that access to funds, incentives, and financial reporting are governed under different 'laws', in conjunction with other 'legal entities' like the private sector, not only causes confusion but also complicates implementation. The limited funding resources allocated for civil society and especially the lack of transparency and fair distribution of 'public' funds according to predetermined criteria poses a significant impediment to the development of a vibrant civil society. The participation of civil society in decision-making processes, which is vital for their effectiveness, is also fraught with challenges. Civil society engagement in decision-making mechanisms and processes is severely limited, ineffective, and not standardised.

In terms of freedom of association, concerns were raised in 2022 following the signing of a protocol between the government of the Republic of Turkey (TC) and the 'administration' of the Turkish Cypriot community, which appeared to target civil society. The 'civil police's attendance at non-public events (conferences, general assemblies, etc.) organized by certain associations further heightened these concerns. Furthermore, interventions occurred in the activities of three different CSOs, which were working towards fostering a culture of peace and focusing on women's health and gender equality. Their projects were either halted, or their protocols with the relevant 'institutions' were cancelled.

Concerning the right to peaceful assembly, it is noteworthy that there exist rather old and unchanged 'laws' that contravene the 'constitution' and contradict international standards. The discrepancy between the 'law' and its actual practice represents another significant concern. While the 'supreme court' has ruled in favour of bridging this gap to allow for greater access to the right to peaceful assembly, 'district governorates' and 'law enforcement agencies', in reality, often restrict this right depending on the purpose, the form, the location, and the party that organizes the demonstration. In such instances, the involved individuals, typically activists, may find themselves subjected to 'criminal prosecution' and 'investigative procedures', as evidenced in several cases during 2022. The process of 'prosecution', 'investigation', and 'trial', which continues until the 'court' arrives at a decision, has tangible and intangible consequences, thereby deter groups wishing to exercise their freedom of expression through peaceful assembly.

INTRODUCTION

This report has been developed following an analysis of local 'legislation' and related policies pertaining to the freedom of association and freedom of peaceful assembly in the northern part of Cyprus during the period of January to December 2022. It includes monitoring of rights violations and serves as a part of a broader report covering the five fundamental rights areas in which the Human Rights Platform (HRP) operates. The aim of this report is to discern both positive and negative trends and practices in the northern part of Cyprus relating to Freedom of Association and Freedom of Peaceful Assembly. It also aims to provide recommendations to enhance the current situation in these areas. Given that this is the first such monitoring report prepared for these areas in the northern part of Cyprus, the focus of the report is to analyse the gap between domestic 'legislation' and international standards as of 2022.

Freedom of Association, Freedom of Peaceful Assembly, and Freedom of Expression are three fundamental areas of democratic rights, each one interconnected and indispensable for a democratic society. Democratic rights are prerequisites to numerous other rights, such as Rights of lesbian, gay, bisexual, transgender, intersex, and plus (LGBTI+) rights, children's rights, labour rights, and refugee rights. Within the scope of freedom of association, CSOs are also expected to enjoy other human rights, such as freedom of peaceful assembly, freedom of expression, the right to effective remedy, the right to a fair trial, and the right to protection against discrimination. The northern part of Cyprus, as a de facto 'entity', lacks 'legal' recognition as a 'state' within the international system, barring few exceptions. It lacks 'institutions' with external legitimacy and cannot formally become a party to treaties. The low visibility of rights violations amplifies the importance of monitoring reports such as this one.

METHODOLOGY

This report was assembled in alignment with pre-established indicators, taking into consideration international standards, conventions, guidance documents, and decisions of the European Court of Human Rights (ECtHR) concerning the freedoms of association and peaceful assembly. Local and international 'legislation' was reviewed, and background research was conducted, including relevant reports, research results, guidance documents, analyses, articles and international documents. Numerous meetings were held with the team of the EU-funded Civic Space Technical Assistance Project and the Civil Society Initiative Association (SiTi), both of which are dedicated to fostering an enabling environment for civil society. Their published research results and reports on this issue were utilized. Media screening was also conducted throughout the year.

As part of the monitoring framework, requests for information were submitted, within the scope of the 'law on right to information', to various 'institutions', including the 'director general of police', the 'general secretariat of the supreme court', the 'legal department' ('attorney general's office'), and the 'district governorates' in Nicosia, Famagusta, and Kyrenia. Visits were made to the 'district governorates', and individual interviews were conducted with 'district inspectors'. An interview was also held with an accounting firm that frequently works with CSOs. In total, 18 CSOs (including rights-based organizations, organizations operating without registration, and organizations in rural areas) and 2 large trade unions were consulted. Additionally, two focus group discussions were conducted to further enrich the data.

BACKGROUND INFORMATION ON FREEDOM OF ASSOCIATION AND RIGHT TO PEACEFUL ASSEMBLY

The freedom of association is intrinsically connected with the freedom of peaceful assembly and the freedom of thought and expression. Recognised as both individual and collective rights, the freedoms of assembly, association, and expression are indispensable for a functional democracy.

CSOs operating within the scope of freedom of association are, by definition, independent non-profit organisations. These entities function in an organized manner and are established by a group of individuals who voluntarily unite around a common objective, interest, or activity. CSOs can register and operate as legal entities, but they also have the option to function as unregistered organisations.

In the 1990s, coinciding with the end of the Cold War, a confluence of factors including increased global awareness of democracy, globalization, technological advancements, and the emergence of new forms of social engagement spurred the expansion of civil society, thereby promoting the spread of human rights globally. Concurrently, civil society was also blossoming within the Turkish Cypriot community. This evolution has gained momentum with the aspiration to foster civil society, guided by the principles of democratization, peace, and the European Union (EU) integration process. The financial crisis spanning 2000 to 2001, excessive reliance on Turkey, and growing discontent with external interferences served as catalysts for numerous civil society organizations.¹ In its inaugural, comprehensive, and participatory evaluation of civil society in 2005, the CIVICUS Civil Society Index project (CSI) declared that the most remarkable development concerning civil society was the significant role that various Civil Society Organizations (CSOs) played in endorsing the 2004 Annan Plan. The report noted, “Even before the UN plan was formally revealed, civil society had been instrumental in forming ad hoc umbrella associations that advocated for a settlement, many elements of which were later incorporated into the Annan Plan.”² It is also critical to emphasize the significant part played by unions and platforms in several large-scale mass actions during this period. In the Turkish Cypriot community, street (public sphere) protests are frequently used as a means of expression by both civil society and opposition groups. Interestingly, the Frederich Ebert Stiftung Foundation’s 2022 Report on Corruption Perception in the northern part of Cyprus reveals that civil society ranks just behind the ‘courts’ as the most trusted ‘institutions’ in preventing corruption. Despite the de facto ‘state’ status of the northern part of Cyprus, the capacity of CSOs to form international alliances underscores yet another significant role of civil society.

The organizational forms of civil society in the northern part of Cyprus encompass a diverse range of entities including associations, chambers, unions, foundations, charities, non-profit enterprises, cooperatives, trade unions, and unregistered organizations (hereinafter referred to as initiatives). Due to the limitations of this study, this report initially examines the ‘regulation’ and implementation of registered associations in the northern part of Cyprus, followed by an investigation into the ‘regulation’ and practices of foundations, charities, and initiatives. Furthermore, a special emphasis is given to trade unions with regard to freedom of peaceful assembly. Historically, trade unions have been at the forefront of numerous social actions, demonstrating their influential position. It’s noteworthy that unionization within the Turkish Cypriot community is predominantly concentrated in the ‘public’ sector, whereas attempts to form unions in the private sector have largely been unsuccessful.

¹ Saadet Alpar, *Civil Society and Civil Society Organisations in Cyprus* (Ankara University 2005)
² Civicus, *An Assessment of Civil Society in Cyprus A Map for the Future* (2005)

In light of the apparent disparity in access to human rights, such as labour rights and occupational safety, as well as the lack of organized efforts to address these violations, there is a deep-seated inequality in access to rights between employees of the private and ‘public’ sector. Membership fees, which are regulated under ‘trade union law no. 13/1971’ and collected in proportion to the number of members, enabled economically stable and strong trade unions to employ professional staff and organize in a sustainable manner. ‘Public’ sector unions possess the potential to mobilize large masses of people and exert influence over social events and policies.³ Trade unions such as the Cyprus Turkish Civil Servants’ Union (KTAMS) and the Cyprus Turkish Teachers’ Trade Union (KTÖS) are involved in organizing or supporting various initiatives on social, economic, and other pertinent issues.

Furthermore, the report focuses on associations operating under the ‘law on associations’ in the northern part of Cyprus, encompassing charities and rights-based organizations engaged in diverse thematic areas. According to data obtained from the ‘central district governorate’, there are **1185 registered associations** in the northern part of Cyprus. There are also 74 charities and 452 foundations.⁴ These associations are distributed across different regions, with 47 percent operating in Nicosia, 20 percent in Famagusta, and 16 percent in Kyrenia. The number of associations in rural areas remains below 100. It is worth noting that the categorization of associations based on their areas of activity varies between ‘district governorates’ and within the associations themselves, resulting in a complex and non-standardized structure. Consequently, it becomes exceedingly challenging to gather, monitor, and analyse data in a uniform manner. Due to these difficulties, the visibility of listed associations in the media and on social media platforms was analysed to identify inactive associations for the purposes of this report. Although this method has limitations as a source of verification, the significant disparity between the number of registered associations and those identified through this review raises concerns regarding the accuracy of records and the long-term viability of these associations. The analysis conducted within the scope of this report indicates that out of the 562 registered associations in Nicosia, only 250 appear to be active. Similarly, 95 out of 242 associations are active in Famagusta, and 89 out of 194 associations in Kyrenia, with comparable figures for the remaining regions.

In the past, extensive studies on freedom of association and the state of civil society in the northern part of Cyprus have been conducted by the Management Center through CIVICUS, as well as Civic Space and Civil Society Initiative Association. The main problems identified can be summarized as follows: Although the number of CSOs is high, they are small in scale and have limited organisational capacity, mostly limited due to the fact that their funding sources (both international and local funding sources) are not diverse and sufficient; CSOs grapple with an inadequate ‘legal framework’ and inconsistencies in its implementation; the ‘administration’s reluctance to involve CSOs in decision-making, resulting in low participation of CSOs in these processes; the limitations in establishing connections and collaborations with international organizations, and finally; CSOs tend to focus more on providing services that would typically be offered by ‘administrative’ bodies, leading to a lack of emphasis on advocacy efforts. Despite recent developments, the number of rights-based organisations still remains relatively low, however, these organizations are becoming more active and visible as awareness of human rights increases.

³ Civicus, *An Assessment of Civil Society in Cyprus A Map for the Future* (2005)
⁴ Ayata Gökçeçipek, *Legal Analysis Report on Freedom of Association* (Civic Space 2016)

FINDINGS ON FREEDOM OF ASSOCIATION AND FREEDOM OF PEACEFUL ASSEMBLY

The 'legal' Framework in the Context of Freedom of Association and Right to Peaceful Assembly

The right to freedom of association is recognized as an individual or collective right for associations to pursue activities in the common interest of their founders, members, or other groups.⁵ Similarly, freedom of peaceful assembly grants individuals and groups the right to assemble freely and peacefully in public or private spaces to express their views without interference from the government or other authorities.⁶ These rights are directly protected by various international human rights instruments, such as Article 20 of the Universal Declaration of Human Rights (UDHR), Articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR), Article 8 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), and Article 11 of the European Convention on Human Rights (ECHR). Conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of Women and Children, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities, as well as conventions on participation in political and public life and those under the International Labour Organization (ILO), also establish the rights discussed in this report. These intersect with other areas of human rights and specifically acknowledge the freedoms of association and assembly for certain individuals or groups as distinct rights.

In the northern part of Cyprus, both rights are 'legally' protected by incorporating⁷ some of the above-mentioned international conventions into 'domestic law' and by explicitly regulating them in the 'constitution'. This right is regulated under 'article 32 of the constitution', which safeguards "the right of citizens to organize unarmed and non-violent assembly or public demonstration without obtaining prior permission", while 'article 33' regulates "the right to form associations without prior authorization." However, the 'constitution' does not include a general principle of "right and freedom of association" as enshrined in Article 11 of the ECHR, which would encompass all forms of organizations. This paves the way for ambiguity in interpreting the 'legal' protection of forms of organization (such as initiatives working without registration) not explicitly mentioned in the 'constitution'. The joint guidance document of the European Commission for Democracy through Law (Venice Commission) and the Office for Democratic Institutions and Human Rights of the Organisation for Security and Co-operation in Europe (OSCE/ODIHR) emphasizes "Legislation must recognize both informal and formal associations or, at a minimum, permit the former to operate without this being considered unlawful" and highlights its particular importance for those persons or groups who may face legal, practical, social, religious or cultural barriers to formally establishing an association. A case study on the Right of Foreigners to Organize highlights the challenges faced by an unregistered organization in this regard.

'Article 32 of the constitution' stipulates that freedom of assembly may be restricted by 'law' to protect 'public order'. 'Article 33' stipulates that associations may, where provided by 'law', be closed down by an order of a 'judge'; and in cases where a delay is considered objectionable from the point of view of safeguarding 'national security', 'public order' and public morals, an association's functions may be suspended until a decision is given by a 'judge', by an order of the 'authority' expressly so empowered by 'law'. The general regulation on the Essence and Restriction of Fundamental Rights and Freedoms governs the conditions under which rights and freedoms may be restricted.

Similar standards are outlined in the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), which are incorporated into 'domestic law'. These standards emphasize that restrictions must be necessary in a democratic society, proportionate, and imposed by 'law' without impairing the essence of the right.⁸ However, the open-ended and broad grounds for restriction, such as "public morality," provide 'authorities' with significant discretionary power in determining the conditions under which fundamental rights and freedoms can be restricted. This situation opens the possibility for restrictions based on political and/or economic motives.

It is important to note that 'articles 32 and 33 of the constitution' regulate that the exercise of these rights and freedoms is limited to "citizens" and excludes non-citizens. Likewise, 'article 13 of the constitution' establishes that "rights and freedoms may be restricted by 'law' for foreigners in accordance with international law". In this context, this provision creates a significant distinction between foreigners and 'citizens' concerning fundamental rights and freedoms, which is incompatible with international conventions that have been incorporated into 'domestic law' and contradicts the principles outlined in the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR).

'Law on associations no. 23/2016' replaced the outdated 'Turkish Communal Chamber's law No. 6/1961' on Unions and Associations, which did not align with international standards. This 'law' regulates both local and foreign associations as well as apex organizations registered in the northern part of Cyprus. In accordance with the 'law on associations', the 'district governorates' and 'central district governorates', affiliated to the 'ministry of interior', are designated as the competent 'authority' for overseeing associations. Foundations, as a 'constitutional institution',⁹ are regulated by 'chapter 337 law' on Evkaf and foundations. Charities, on the other hand, are regulated by 'chapter 41 law' on charities, enabling them to acquire 'legal personality' with the decision of the 'council of ministers'.

The relevant 'legislation' specifically addressing the freedom of assembly is 'chapter 32 the law' on assembly and demonstrations. This 'law', which came into force in 1958, has not undergone significant amendments. The 'law' includes provisions that are outdated in democratic terms, such as demonstrations and marches being subject to permission from the 'district governorate' and the potential for bans. Similarly, 'article 70 of the criminal law' of 1929, which defines the offences of unlawful assembly and rioting, has not been amended to date. The 'law' contains broad criteria for determining which assemblies can be considered illegal.

'Article 144 of the constitution' regulates the office of the 'ombudsperson', who has the authority to audit the 'administration', expose, investigate, report, and warn relevant 'authorities' regarding practices that do not comply with 'legislation'. However, the 'ombudsperson' lacks the power to impose sanctions, and the non-binding nature of its reports and warnings weakens its influence in this regard.

Although there is a right to apply to the 'constitutional court' to challenge 'laws' that are contrary to the 'constitution', this mechanism provides a limited remedy in terms of time, subject matter, and the capacity of individuals and 'institutions' to apply. As a result, there is a gap in terms of 'constitutional' review of rights violations.¹⁰ Therefore, as demonstrated in the case of freedom of assembly, it is not possible to subject 'laws' that were enacted in the past and are currently far from 'constitutional' standards to scrutiny by the 'constitutional court' through this mechanism.

⁵ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association [2015], 17
⁶ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly (3rd ed., 2020)
⁷ Detailed information on the incorporation of these conventions into 'domestic' law can be found in Annex 1.

⁸ European Convention on Human Rights, Article 11. Covenant on Civil and Political Rights, Articles 21 and 22.
⁹ Ayata Gökçeçek, Legal Analysis Report on Freedom of Association (Civic Space 2016), 16
¹⁰ "constitution", article 147.

Situation Analysis in northern part of Cyprus in the context of Freedom of Association

The Venice Commission and OSCE/ODIHR, in their joint guidance document¹¹ emphasize that the State has a duty (positive obligation) to respect, protect and secure the enjoyment of the right to freedom of association. In particular, the guidance document highlights that it cannot be reduced to a mere duty on the part of the State not to interfere (negative obligation). Consequently, legal provisions on associations need to be well-drafted. With the adoption of 'law no. 23/2016 on associations', the 'legislation' in the northern part of Cyprus was further harmonized with the relevant international standards. Since 2016, there have been no further changes in the 'legislation'.

In general, the 'law' facilitates the establishment of associations and does not impose restrictions that would seriously impair the realization of their objectives and activities. However, the 'regulation' of various issues, particularly financial matters such as access to funding, taxation, and property acquisition under numerous 'laws' such as the 'law on physical education and sports', the 'regulation' on providing assistance to fine arts associations, the 'law' on lotteries, the 'law' on collection of aid on streets and door to door, the 'law' on legal persons (registration of immovable property), the 'law' on corporate and income taxes causes problems and inconsistencies in practice, and negatively affects the enabling environment for civil society organizations.

Regarding the right to freedom of association, it was stated in the protocol signed in 2022 between the Republic of Turkey and the 'administration' of the Turkish Cypriot community that "the targeting of civil society through disinformation campaigns, which are widely used by third world countries and non-governmental organizations, aiming to undermine the historical, cultural, and geographical ties between the northern part of Cyprus and Turkey" raised deep concerns. Another worrying incident was the visits of plain-clothes 'police' to non-public events (such as conferences, general assemblies) organized by certain associations in 2022. Additionally, two CSOs faced interventions in their activities in 2022. The Imagine project, led by the Association for Historical Dialogue and Research (AHDR), which aims to foster contact, cooperation, and peace culture between the two communities in Cyprus, was indefinitely blocked by Turkish Cypriot community leader Ersin Tatar.¹² Furthermore, the Cyprus Women's Health Research Centre's (KISAD) booklet containing information on menstruation was banned in schools by the 'ministry of education' after being deemed 'inappropriate' by the staff of the 'department of educational planning and programming'.¹³

¹¹ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association [2015],15-16

¹² https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n446435-imagine-projesi-rafa-kalkti-genclerin-hayalleri-ertelendi

¹³ <https://www.havadiskibris.com/egitim-bakanligindan-regl-kitabi-aciklamasi/>

1. THE STATE OF PLAY AND RESTRICTIONS ON ESTABLISHMENT, MEMBERSHIP AND PURPOSES OF ESTABLISHMENT OF CSOS

1.1 'Regulations' on Founding Membership of CSOs and/or Membership to an Established Association

In terms of freedom of association, Article 11 of the European Convention on Human Rights (ECHR) states that "Everyone has the right to freedom of peaceful assembly and association." Further, Article 14 stipulates non-discrimination, asserting that all rights and freedoms, encompassing the freedom of association, should be universally applicable without discrimination. The United Nations Human Rights Committee similarly mandates that states should not discriminate between citizens and non-citizens, especially concerning the freedom of assembly and association.¹⁴

At the domestic level, 'article 33 of the constitution' and 'article 4 of the law on associations' only permit citizens aged 18 or above to establish or join associations. The 'law' imposes restrictions on foreigners and children. Except for these limitations, the 'law' stipulates that the prerequisites for becoming a member shall be regulated in the statute of the association, in alignment with international conventions.

The restriction concerning the establishment or membership of associations by children is outlined in 'article 5 of the law'. For the establishment of an association, founding members should be aged between 15 and 18 (at the time of the association's establishment) and should possess written consent from their parents. Children below 15 years are not allowed to be founding members of an association but can only join children's associations with the written permission of their parents. According to Article 15 of the United Nations Convention on the Rights of the Child (UNCRC), children's right to form associations must be recognized, with restrictions only allowable for purposes legally mandated and necessary within a democratic society. However, the 'law' on associations infringes on these rights in terms of the limitations it imposes and is not harmonized with regulations set out in Articles 5 and 12 of the UNCRC,¹⁵ which are designed to foster the development of children's talents and facilitate the formation of their own opinions.

The 'law' on associations also imposes constraints on **foreigners looking to establish or join an existing association**. In fact, information collected from 'district governorates' reveals a complete absence of registered foreign associations formed by foreigners in any region. 'Article 5 of the law' lays down the 'regulations' for foreign 'nationals' to establish or join existing associations. It states that "foreign real persons who have a permanent residence permit and/or a work and/or residence permit for at least 6 years without interruption, who have reached the age of 18 and are legally competent, may establish associations or become members of existing ones." However, the same article prohibits foreign children from establishing or joining an association. In the northern part of Cyprus, where 'students' and workers from different countries come to study at 'universities' or work and where vulnerable groups such as refugees are not few in number, this article is objectionable from the perspective of enabling these individuals and groups to voice their concerns and rights violations without being subjected to discrimination. Barriers on the freedom of association for these groups make it difficult for them to address human rights violations and access rights, thereby failing to comply with international standards, most notably the ECHR.

¹³ Birleşmiş Milletler İnsan Hakları Komitesi, Genel Yorum No.15, U.N. Doc. HRI/GEN/1/Rev.1 at 18 (1994).

¹⁴ <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>

Strict restrictions are also in place on the establishment and membership of associations for **members of 'security forces' and 'police organizations'**, as dictated by the 'law' on internal services of the 'security forces' and the 'law' on (the establishment, duties and powers of) the 'police organization'. These 'laws' prohibit members of the 'security forces' from joining associations or engaging in their activities. As for members of the 'police force', they can only establish associations among themselves, focusing on their personal rights as employees and on professional matters. While Article 11 of the ECHR also imposes some restrictions on similar groups, these limitations must be narrowly tailored, proportionate, and applied only when the establishment or membership of a civil society organization would interfere with public duties and/or jeopardise the political neutrality of public officials.¹⁶

Further constraints exist in the 'law' on associations concerning **foreign associations and apex organizations opening representative offices**. Representative offices can only be opened with the endorsement of the 'ministry of foreign affairs' and the authorization of the 'ministry of interior'. The lack of explicit criteria for permission and the limited scope of permissible activities restricts the exercise of freedom of association.¹⁷

In the 'law' on Evkaf and foundations, the right to establish a foundation is extended only to 'persons who are competent to make a foundation (who are members of the Islamic religion and have contractual authority).' This religious requirement contradicts the principle of non-discrimination. The 'law' on charities, which regulates charities, does not provide provisions on the subjects of the right, which, in practice, results in arbitrariness, leaving the approval of those seeking charity status to the discretion of decision-makers.

Case Study: The Right to Organize for Foreigners_ Interview with Vois Cyprus Initiative

Voices of International Students (VOIS) was established in 2018 as a grass-root initiative to address the challenges faced by international 'students', following the murder of Kennedy Taomwabwa Dede, a Nigerian 'student' residing in the northern part of Cyprus, in the same year. By December 2022, VOIS has evolved into a robust organization with 10 committees and departments, over 50 active volunteers, and 500 members working to mitigate the issues faced by international 'students' and amplify their voices.

VOIS saw the need to become a registered association in the northern part of Cyprus, where they are very active, and conducted research on this matter. During an interview, they shared their experience with the registration process, stating, "The requirements for registration are neither simple nor clearly explained. We sought 'legal' advice and were informed that we could not register. Officially, we haven't applied for registration due to various reasons, but we plan to do so. We haven't been officially rejected since we haven't submitted an application yet, but we anticipate rejection given that our association was founded by foreigners. We were told we couldn't register unless we had five Cypriot founding members, which is an unreasonable requirement for a civil society organization working with international students."

VOIS reported numerous challenges due to their inability to register, saying, "Our operations are severely restricted in several areas. For instance, we've missed out on many funding opportunities due to our non-registered status. Establishing local or international donation channels for VOIS also presents problems, as these typically require registration. Running certain social media campaigns or joining certain international associations have also been problematic. Furthermore, our lack of registration has led to security issues, as we have previously received warnings from the 'police' that we could face arrest or closure of our organization."

¹⁵ <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf>
¹⁶ Ayata Gökçeççek, Legal Analysis Report on Freedom of Association (Civic Space 2016), p.20
¹⁷ UN Doc. A/HRC/20/27, 21 May 2012, para. 59

1.2. 'Regulations' on the Legal Entity of CSOs and their Purposes of Establishment

The 'law' on associations covers associations (established by 'citizens'), apex organizations (federations, confederations), children's associations, foreign associations (representative offices, foreign associations, associations with foreign origin, foreign apex organizations), and Platforms/ Networks/Initiatives that do not necessitate a separate 'legal entity' but are formed by associations among themselves or with foundations, trade unions, and other civil society organizations for a common purpose. Organizations without 'legal entity' fall outside the 'law on associations' and are not regulated. The Venice Commission and OSCE/ODIHR, in their joint guidelines,¹⁸ emphasize that "legislation must recognize both informal and formal associations or, at a minimum, permit the former to operate without this being considered unlawful...since those persons or groups who may face legal, practical, social, religious or cultural barriers to formally establishing an association should still be free to form or join informal associations and to carry out activities".

In general, the establishment of associations for various purposes in the northern part of Cyprus, aligning with international standards, faces no restrictions. The 'law's definition of an association states that associations can be formed for purposes 'other than sharing profits and not prohibited by the 'constitution' and 'laws.' However, as the term 'laws' refers to all local 'legislation', this could potentially lead to practical issues or enable arbitrary actions by 'administrative authorities'. 'The law' enforces specific restrictions on children's associations and foreign associations:

Children's associations: These can only be active in areas that protect and promote the best interests of children, such as science, sports, arts, environment, and animal rights.

Foreign associations (Representative Offices): A foreign association or an apex organization wishing to open a representative office in the northern part of Cyprus for engaging in activities or cooperation can only do so for the purpose of carrying out sports, health, human rights, environmental, and/or educational activities for persons with disabilities. These activities or cooperation in the northern part of Cyprus must align with the establishment purposes.

1.3. 'Regulations' concerning the Statutes of Associations, their Registration Process and Administrative Control

All registered associations are 'legally' required to have statutes. 'Article 7 of the law' specifies the information to be included in the statutes in detail. This wording of the 'law' often poses challenges for associations in practice and hinders the exercise of the freedom of association.¹⁹

There are no fees or charges to be paid to the 'state'. However, the 'law' on associations stipulates that associations must provide a physical address, a requirement that can pose challenges for newly organized groups. Although the 'law' permits a private residence to be used as the association's centre, the property owner is required to allow 'district governorate officials' to enter for inspection purposes, causing practical difficulties.

¹⁸ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association [2015],
¹⁹ Ayata Gökçeççek, Legal Analysis Report on Freedom of Association (Civic Space 2016), 21

For **foreign associations**, additional documentation such as passport and work permit/residence permit/immigration information are required. Moreover, **foreign associations and their apex organizations** must provide a declaration of establishment, the approved statute from the country where it is registered, a certified copy of its translation into Turkish, along with the representative office's address and a photocopy of the appointed representative's identification card or passport.

The association registration process must be completed within a maximum of 60 days. At the end of this period, the respective 'district governorate' should inform the applicant whether the association has been registered in the associations register or if the establishment request has been denied. While the 'law' is designed to not infringe upon the freedom of association, the main problems that make the exercise of the freedom of association difficult arise in practice. According to a 2022 survey conducted by SiTi on civil society, 23.26% of the respondent associations reported that bureaucratic procedures such as registration and reporting are complex. 41.86% claimed that the 'authorities' do not have clear implementation standards, while 32.56% noted that the 'authorities' technical staff lack knowledge and/or capacity. Interviews and focus group discussions with CSOs echoed these issues. In the same vein, discussions with 'district governorates' highlighted inadequate human resources as a significant issue, particularly in Nicosia, where most associations are registered.

Another challenge is the approval process for the association's statute. Although not stipulated by 'law', the 'district governorate' sends the statutes of associations to the 'legal department' ('attorney general's office') for review under 'article 158 of the constitution'. This process causes delays due to a shortage of legal staff in relevant 'state' units, and practices can vary between regions. For instance, Nicosia 'district governorate' sends the statutes to the 'legal department' ('attorney general's office') without reviewing them due to lack of capacity, whereas Kyrenia and Famagusta 'district governorates' review the statutes when time permits and provide feedback. In the review of statutes by 'prosecutors', differing interpretations may emerge, depending on the individual reading the document. As per the SiTi survey results, 36% of respondent associations that registered after 2016 indicated that the 60-day legal deadline for registration was exceeded.

Another issue concerns the 'e-legal' system envisaged to be used by the 'district governorates' for registering associations. The e-legal system provided by the Republic of Turkey is operational for all 'legal entities' (companies, foundations, trade unions, political parties, 'public institutions', etc.) in the northern part of Cyprus. Given the software is specifically designed for companies, data input is not structured according to the requirements of the 'law'. This program serves as a type of registry that can capture and store more information than required by the 'law'. The range of data collected depends on the discretion of the 'civil servant' administering the process.

1.4. 'Regulations' on Reporting, Audits and Closure of Associations

Internal audits are essential for associations and their apex organisations founded under the 'law on associations'. However, this does not absolve 'district governorates' of their oversight responsibilities. According to the 'law', 'district governorates' shall check at intervals not exceeding one year that an association operates in accordance with its statute and that the association's books, accounts, and records are maintained as per the 'legislative' requirements and the association's statute. A distinct provision has been established for **foreign associations**, mandating the submission of an activity report to the 'district governorate' every six months.

In practice, lack of clarity on the content of activity report and financial report lead to inconsistent practices among 'district governorates', complicating the report preparation process for associations. The 'law on associations' specifies that financial reports should only document income and expenditure records. The 'tax procedure law' outlines the relevant procedure. Another restrictive 'regulation' related to the freedom of association in terms of non-discrimination stipulates that foreign associations and associations with foreign origin are subject to the permission of the 'ministry in charge of internal affairs' for in-kind and cash aid that they can receive through banks, whereas other associations need only to submit a notification. These 'regulations' increase the bureaucratic burden on foreign associations, thereby hindering the freedom of association. As such, these 'regulations' need to be revised.

There is another discrepancy in practice regarding membership lists. While the 'law' states that 'district governorates' should receive membership lists in a closed envelope, seal them, and return them to the association for safekeeping, it has been reported that the Trikomo/Iskele 'district governorate' has requested the lists openly. Such variation in practice among 'district governorates' can lead to arbitrary procedures. A positive development occurred in 2022 when a working group was established within the 'ministry of interior', with participation from HRP, SiTi, and Civic Space. This group has begun work on a guideline document aimed at standardising the practices of 'inspectors' working in the relevant units of 'district governorates' and clarifying ambiguous elements that are open to interpretation.

The 'district governorate' or the 'ministry of interior' has the 'legal' right to petition the 'court' for the dissolution of an association or an apex organisation for reasons stipulated by 'law'. An association can only be dissolved through a 'court' order, with the reasons for dissolution aligning with international freedom of association standards. However, 'article 33 of the constitution' states that "...associations may be suspended until a decision is given by a 'judge', by an order of the authority expressly so empowered by law." This provision grants 'ministries' and 'district governorates' the power to halt the activities of associations prior to the completion of 'court' proceedings, thereby posing potential limitations on the freedom of association.

For foreign associations and representative offices, significant restrictions have been enacted. The 'legislation' states, "In the event that a representative office opened with the permission of the 'ministry' is found to be in violation of the 'constitution' or any existing 'law', the permission granted shall be cancelled by the 'ministry'." In 2022, dissolution or closure incidents were primarily due to requests from members and for associations who failed to hold their general assembly within six months after registration or didn't establish their representative bodies. If associations believe they have been unjustly treated, they can take the matter to 'court'. However, the duration and expense of 'court' proceedings, coupled with the limited resources of associations, often discourage civil society organisations from seeking a 'judicial' resolution. Consequently, the IHP initiated a hotline for freedom of association matters in 2022, offering legal assistance related to freedom of association issues.



2. CURRENT SITUATION AND RESTRICTIONS CONCERNING FUNDRAISING, USING FUNDS AND FINANCIAL INCENTIVES

Access to human resources, material, and financial resources is a fundamental part of the freedom of association for CSOs. This right has been safeguarded by numerous international and regional conventions.²⁰ The European Court of Human Rights (ECtHR) and the Court of Justice of the European Communities (ECJ) have also recognised the right of association includes the right for CSOs to access funding.²¹ The Venice Commission emphasises the importance of access to both domestic and international resources, stating that “states shall not restrict or block the access of associations to resources on the grounds of the nationality or the country of origin of their source, nor stigmatize those who receive such resources.”²² The Guidelines add that this freedom can only be limited concerning matters such as “customs, foreign exchange, the prevention of money laundering and terrorism, as well as those concerning transparency and the funding of elections and political parties.”

Nearly half of the registered associations in the northern part of Cyprus are inactive. The Civic Space Report, published in 2020, and the results of the SiTi CSOs survey conducted in 2022 reveal that CSOs face challenges in securing the necessary financial resources to conduct their operations. These funding constraints also negatively impact human resources. Most active CSOs (52.83% of the organisations participating in SiTi’s survey of CSOs in the northern part of Cyprus 2022) do not have paid staff, thereby threatening organisational sustainability, as these CSOs continue to rely heavily on volunteers. As highlighted in the 2020 Civic Space Report, this issue constitutes the main obstacle to long-term planning, professionalization, and sustainability of the civil society sector at large.

The legal environment, in general, is not conducive to fundraising. CSOs have limited organisational capacity, knowledge, and experience in fundraising, as well as limited human resources to dedicate to this field. Another key point to note is that a CSO’s field of work plays a significant role in fundraising. CSOs focusing on socially sensitive topics such as health and children, and those providing services, hold more advantages than rights-based organisations.

2.1. Status of Fundraising

2.1.1. Donation

For CSOs, income from donations is the second largest source of funding, although it is not substantial except for some larger, well-established associations. The ‘law on associations’ differentiates fundraising activities from other sources of income by stating that “fundraising activities shall be carried out in accordance with the rules of chapter 95, the ‘law on collection of aid on streets and door-to-door’. ‘Chapter 95’ applies to all private individuals and ‘legal entities’. This stipulation subjects CSOs to a permit process by the appropriate ‘authorities’, thereby limiting the freedom of association. Non-profit CSOs, with limited diversification of income, should not be regulated to the same extent as companies.

‘Chapter 95’ requires obtaining a permit to collect aid, stating that “the licensing ‘authority’ shall be authorised.” This provision grants extensive powers to the ‘district governor’, ‘mayor’, and the ‘district police chief’. In this context, it should suffice for the ‘district governorate’ to seal the association’s donation receipts, provided that the association is registered and the proceeds from these donations are reflected in its financial reports.

A crucial point to note is that under ‘chapter 95’, it is an offence to collect donations without a valid license or outside the prescribed ‘regulations’. Violators, including both the organisers of the donation event and those acting under their authority, can be fined or imprisoned for up to one year, or both. This severe penalty contradicts the first principle of the Joint Guidelines of the Venice Commission and OSCE/ODIHR, namely “Presumption in favour of the lawful formation, objectives and activities of associations.”²³ In 2022, we have no knowledge of any CSO being penalised under this ‘regulation’, but such a rule invites arbitrary enforcement and abuse.

Furthermore, reactive income sources (e.g., spontaneous individual or institutional donations, economic activities like selling products/services) and proactive income sources (campaigns openly seeking donations for a specific purpose) should not be subject to the same ‘regulation’.

After the ‘district governorate’ receives the application, which includes details such as the purpose of the campaign, time, duration, donation channels, and the anticipated amount of donations to be collected, it liaises with the ‘municipality’ and the ‘police’, then seals the donation receipt after their approval. The research revealed that practices vary among different ‘district governorates’.

The civil society can also be reactive; there are times when fundraising becomes necessary due to a social issue or an emergency like a natural disaster. The donation receipt authorisation process poses problems in such circumstances. The donation receipts are already printed by authorised printing houses, and their numbers are recorded. While issued receipts must be archived for a specified period, the ‘district governorate’ should not attempt to control the receipts by separately stamping them. Presently, there are no ‘regulations’ to accommodate today’s technology and online donation mechanisms, which poses additional problems.

Case Study: SiTi Donation Receipt process

On August 18, 2022, SiTi submitted a petition to the Nicosia ‘district governorate’ seeking permission to print donation receipts. On September 15, 2022, a ‘police officer’ from the crime prevention ‘department’ of the Nicosia ‘police directorate’ contacted Süreyya Çelmen Değer, the signatory of the petition and the Chairperson of the Board of Directors of SiTi, by phone. The ‘officer’ requested that Değer visit the ‘police headquarters’ on September 16, 2022, bringing along the association’s bank book and any other relevant official documents. Initially, the ‘police officer’ indicated that the association’s name had been confused with another in the letter from the ‘district governorate’. Later, it was clarified that the names of associations due for a meeting had been sent collectively to the Nicosia ‘police directorate’s crime prevention ‘department’. During the meeting at the Nicosia ‘police directorate’, the ‘police’ asked about the association’s objectives, the purposes for which donations would be collected, and gathered a series of personal details to determine whether the members of the Board of Directors could potentially “harbour criminal potential”. Some of the questions posed included whether the board members were married and had children. After the meeting, representatives of the Board of Directors were informed that the ‘police’ would soon provide the Nicosia ‘district governorate’ with a favourable opinion. The meeting then concluded. The Nicosia ‘district governorate’ issued an approval letter for the printing of the donation receipt on October 6, 2022, allowing the process to be completed within 35 working days.

20 Access to resources : report of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi Voule, [2022], 4-5

21 European Court of Justice, Commission v. Hungary (case C-78/18), judgment of 18 June 2020, paras.110–118.

22 Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association [2015], principle 7

23 Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Association [2015], 26

Case Study: Queer Cyprus Donation Receipt process

Queer Cyprus applied to the Nicosia 'district governorate' with a petition approved by its Board of Directors to reprint donation receipts. Despite their request for printing new donation receipts in the petition, the 'district governorate' claimed that the previously issued donation receipts did not appear in their system and insisted that the association had to acquire completely new donation receipts starting from 0. This confusion led to a situation where the association was unable to receive donations for approximately nine months. After a series of further negotiations, a mutual agreement was reached. However, prior to the issuance of the authorization letter, the association was asked to provide a statement to the 'police' about the old donation receipts. The 'police' subsequently instructed that the old donation receipts should be surrendered to the 'district governorate'. As a result, all unused receipts were handed over. The 'police' then took a detailed statement from the association members and staff about the donation receipt process and informed the 'district governorate' that necessary investigations had been conducted. Yet, there were delays and issues in delivering the authorization letter to the 'district governorate'. After the receipts were printed at a printing house, the donation receipts were taken to the 'district governorate' for official sealing. However, at this stage, the association was again requested to provide a petition approved by its Board of Directors.

Within this framework, another source of income for CSOs is the organization of charitable lotteries and raffles. To do so, permission must be obtained from the relevant 'district governorate', and a separate application must be made to the 'tax office' for the printing of lottery tickets. CSOs conduct this activity in accordance with the 'law' on lotteries, which entails many restrictive and bureaucratic procedures. Moreover, the 'law' stipulates that if a breach is detected, a prison sentence of up to six months, an administrative fine, or both, may be imposed. This is a rather severe and disproportionate practice.

2.1.2. Public Funds and Supports

The 'law on associations' imposes no 'legal' restrictions on access to 'public' funds or 'public' support. However, 'public' funding and support are quite limited. According to the SiTi 2022 survey, nearly half of the CSOs cited the lack of 'state' support as their most significant issue. Funding 'institutions' include the 'presidency', the 'parliament', the 'prime ministry', the 'youth department' under the 'prime ministry', the office of the 'deputy prime minister', the 'ministry of tourism and environment', the 'ministry of finance', the 'ministry of economy and energy', the 'culture department', and the 'sports department'. Aside from the funds granted by the 'youth department' and the 'culture department' under the 'prime ministry', other funds are awarded without any public announcement or pre-determined criteria and are evaluated based on the initiative of CSOs upon their application. Factors such as the CSO's purpose and activities, the intended use of the fund, whether the organization is bi-communal, and whether the organization receiving the fund benefits from international funds can influence the decision. In particular, the 'culture department', which previously had an 'evaluation committee' that included members of civil society, has in recent years neutralized this 'committee' but continued to distribute funds. According to the data received, the amounts allocated in 2022 were as follows: a total of 1,500,000 TL was granted to associations, unions, institutions, and organizations ('public' funds). Transfers to non-profit organizations ('public' support in return for services) totalled 20,932,263 TL.

There are various partnerships between CSOs and some 'public institutions' that provide various services for vulnerable groups such as children and health. In cases where the 'administration' is obliged to provide services but cannot do so, it relies on services from CSOs. Since this situation is not regulated in legal texts, it is regulated by protocols signed between the relevant 'institution/department' and CSOs. According to information received from the 'ministry of finance', the budget for contributions and funding allocated to civil society in 2023 was determined to be 1,855,041 TL. The purpose and scope of the budgets or aid provided is neither defined nor determined in consultation with civil society; there is no such practice.

2.1.3. International Funds

International funding is limited due to the *de facto* situation in the northern part of Cyprus. The EU is the international organisation that regularly provides the largest amount of funding to civil society. In 2022, the EU allocated 2.5 million EUR to civil society. Organisations working in various thematic areas such as Refugee Rights, LGBTI+ rights, right to health, rights-based organisations and environmental organisations benefit from these funds. Unlike previous funding programmes, the EU grant scheme has paved the way for grass-root initiatives and newly established organisations with lower capacity to receive funding. However, the project application process takes place in a competitive environment requiring technical knowledge, experience, and organisational capacity. Few associations possess this capacity. Moreover, the scarcity of other income sources raises concerns about sustainability at the end of the project. Other non-EU funding organisations include the United Nations (UN) High Commissioner for Refugees fund, the European Economic Area Funds (EEA Grants), the USA, the French Embassy, etc., although funding from different institutions, of varying amounts and for varying purposes, is limited.

According to the 'law on associations', associations and their apex organisations can receive financial aid from individuals, institutions, and organisations abroad through banks. However, in such cases they are obliged to notify the 'district governorate' about the cash and in-kind aid they will receive (including their projects). While associations and their apex organisations are already required to submit annual declarations to the 'district governorate' regarding their income and expenditures, this additional notification obligation creates unnecessary bureaucracy and burden. The same 'article' stipulates that access to international funds by foreign associations and associations with foreign origin is subject to the authorisation of the 'ministry of interior'. These differing 'regulations' must be changed to ensure that the prohibition of discrimination and the freedom of association, which concern everyone, are not hindered. In practice, 'district governorates' do not exert pressure on associations in this regard and find it sufficient to include these in the General Assembly and Financial Report. However, this practice leaves room for arbitrariness.

2.1.4. Economic Activities

During interviews conducted within the framework of monitoring, both accountants and CSOs indicated that CSOs can engage in economic activities. There's no need to establish a separate economic entity for this purpose, and the 'law on associations' does not prohibit this. However, CSOs engaged in economic activities are obliged to report these revenues in their accounting records/financial reports and to apply/report to the local body responsible for finance. CSOs are subject to tax only on their economic activities (on income that exceeds the expenses of their activities) and the tax rate applied to CSOs is the same as the rate applied to companies. Engaging in economic activities necessitates organisational capacity, which is why CSOs rarely participate in such activities and prefer to receive donations instead of payments for services or goods they provide. Organisations with charity status shall be established as private companies by a decision of the 'council of ministers'. They are permitted to generate a profit, but individuals within the organisation cannot benefit from this income personally. Instead, the income generated is reinvested into the organisation.

2.2. Acquisition of Immovable Property

Concerning the acquisition of immovable property, the 'constitution' stipulates that "Every citizen has the right to property and inheritance. These rights may be limited by 'law' for public interest purposes" and confines the right of foreigners to acquire immovable property by identifying citizens (both real persons and 'legal entities') as the bearers of the right. In accordance with the prohibition against discrimination, the European Convention on Human Rights (ECHR) guarantees this right for all natural and legal entities. For CSOs, the right to acquire immovable property is governed in the local 'legislation' by the 'law' on legal persons (registration of immovable property). During the application process for the acquisition of immovable property, an official document affirming that the relevant organization was established for charitable, athletic, or social purposes, and not for commercial gain, shall be submitted to the director of the 'land registry and cadastre department'. 'Article 18 of the law on associations' stipulates that "Associations and their apex organizations may purchase or sell immovable property upon authorization from their General Assemblies." This same 'article' refers foreign associations or associations with foreign origin to the 'law' on immovable property acquisition and long-term leasing (for foreigners) and subjects them to a different application process. According to this 'regulation', both real persons and 'legal entities' may purchase immovable property with the prior authorization of the 'council of ministers'.

2.3 Financial, 'tax' and in-kind Support Mechanisms of the 'state' for CSOs

2.3.1. 'Tax' Exemptions and Incentives for Associations

All 'regulations' concerning taxation, including those for Civil Society Organisations (CSOs), are governed by the 'corporate tax law' and the 'income tax law'. The 'law on associations' does not provide any specific 'regulation' on this subject. Registered CSOs are exempt from 'corporate tax' ('article 7 of the corporate tax law') and 'income tax' ('article 8 of the income tax law'), unless they have their own economic enterprise. An additional exemption for associations is the 'corporate tax' exemption for establishments such as lounges, "casinos", and restaurants that belong to associations, and that are only open for the use of their members, and where alcoholic beverages are not served. The 'value added tax (VAT) law' makes VAT mandatory for CSOs, as do 'customs' and 'withholding taxes'. Exceptions are only provided for "foundations, institutions and associations with social purposes approved by the 'council of ministers' and federations registered in accordance with the 'physical education and sports law' for "cultural, educational and social purposes". This leads to inequality between different types of civil society organisations. Of particular note are the exceptions under the 'law on charities' for organisations approved by the 'council of ministers'.

As explained above, CSOs submit their income and expenditures to the relevant 'district governorate' according to the accounting method they have chosen. The relevant 'officer' checks and, if deemed necessary, transfers it to the 'ministry of finance'. The 'district governorate' is not authorised to pursue 'taxes'. Especially for newly established CSOs with limited financial and human resources, it is very difficult to fulfil all these practices without the help of an accountant and/or a lawyer and may cause problems in practice.

2.3.2 'Tax' Incentives for Corporate and Personal Donations

'Article 8 of the income tax law' provides 'tax' incentives for donors, but these incentives are limited in both their scope and the types of organizations they cover. The scope is restricted to certain types of activities such as 'statutory' bodies, sports clubs, and foundations, as well as charities approved by the 'council of ministers'. Companies can enter into sponsorship agreements and deduct up to 100% of the donation amount from their 'taxes', but the scope of these sponsorship agreements is restricted to areas such as 'education, health, sport, culture, arts, and scientific research'. There are also some 'regulations' in the 'corporate tax law', but these 'laws' can be quite complex and difficult to comprehend and use for individuals who are not specialists in the field.

Charities: A special form of 'legal entity' and the privileges granted to Charities

Charities are regulated as a special form of organisation by the 'law on charities'. Charitable organisations with an educational, literary, scientific or public purpose and approved by the 'council of ministers' have a separate 'legal entity'. However, the criteria and procedures for this process are not clearly defined, which can lead to inconsistency and arbitrary practices. It's unclear why a separate 'legal entity' status is needed, how it differs structurally from associations and foundations, and why the decision is left to the highest 'political body' in the northern part of Cyprus. There are 74 charities according to the obtained list. For these charities, additional 'tax' reductions and incentives exist in the relevant 'laws', unlike for associations. This includes incentives for donations from both individuals and 'legal entities', as well as 'tax' exemptions and incentives for organizations.

To improve transparency in the process of benefiting from 'tax' exemptions and other privileges for all CSOs, the 'legislation' should be amended. This could be achieved either by eliminating the charity status or by clearly defining the criteria and procedures to obtain such a status, and applying them at a more technical level. The approval should not be left to a high-level political body like the 'council of ministers'.



3. PARTICIPATION OF CIVIL SOCIETY IN DECISION MAKING PROCESSES

The International Covenant on Civil and Political Rights (ICCPR),²⁴ recognises and guarantees public participation in decision-making processes for every citizen. The Code of Good Practice for Civic Participation in Decision-Making prepared by the Council of Europe²⁵ further emphasizes this, defining civic participation as “the participation of individuals in service and general public policy-making processes by non-governmental organisations such as civil society organisations, associations, and communities”. The levels of participation can vary, with access to information, consultation, active participation, and dialogue as possible modes of engagement.

At the local level, the amendments to the ‘internal regulations’ of the ‘parliament’ provided some avenues for civil society participation in decision-making. CSOs are invited to participate only if deemed necessary. It is problematic that the time limits for responses can be short, and feedback received can be subject to arbitrary evaluation. On a positive note, there have been instances where the input of CSOs led to substantial revisions in policy. For instance, in 2022, the draft ‘law’ on the establishment and broadcasting of ‘public’ and private radio and television enterprises, proposed by the ‘supreme board of broadcasting (YYK)’, was criticized by civil society. The ‘parliamentary committee on legal, political and foreign affairs’ invited relevant CSOs to share their views, leading to revisions in the ‘bill’ based on their input.²⁶ However, there have also been instances where the process has been brought to a ‘fait accompli’ on many issues directly affecting associations in past years, or where CSOs have been invited but their opinions not taken into consideration in practice.

When the relevant ‘legislation’ is examined, the following problems seem to be apparent:²⁷

- None of the existing ‘laws’ detail the conditions, content, or other aspects of this cooperation.
- ‘laws’ often contain vague expressions such as “encourage” or “ensure cooperation”,
- In some ‘laws’, there are provisions for the inclusion of CSOs in advisory boards or similar bodies established under the relevant ‘law’.
- The participation of CSOs in advisory bodies is not guaranteed and the ‘administration’ is left with a wide margin of discretion in these matters.

In practice, the interaction between civil society and ‘public institutions’ is restricted and often requires both initiative and persistence from the civil society’s side. In 2022, a protocol intended to foster gender equality in schools was signed by the association of Women to Support Living and the ‘ministry of education’. However, this protocol was subsequently annulled unilaterally by the ‘ministry’, without providing any justification, and the dialogue and cooperation came to a halt.

In the realm of advocacy, rights-based CSOs have seen significant growth over recent years. However, this is not the case for most organizations lacking the experience, knowledge, or human resources required for advocacy. In relevant ‘ministries’ and ‘departments’, even though CSOs are not the main point of focus, there have been instances where ‘officials’ have personally taken initiative, establishing dialogue through personal connections with CSOs. However, interviews with CSOs revealed that this generally did not yield any significant outcome. As reported by the associations interviewed, strategic dialogues are short-lived due to the frequent turnover of ‘public officials’. The long and onerous process of ‘legislative amendments’, coupled with the ‘country’s unstable politics causing a high turnover of ‘officials’, were cited as reasons for the lack of effective consultation.

²⁴ <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

²⁵ <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802eed5c>

²⁶ <https://haber.kibris.com/ozturk-ve-talat-kamu-ve-ozel-radyo-ve-televizyonlarin-kurulus-ve-yayinlari-degisiklik-yasa-tasarisini-degerlendirdi-1053-2022-10-04.html>

²⁷ Ayata Gökçeççek, Legal Analysis Report on Freedom of Association (Civic Space 2016), 21

SITUATION ANALYSIS IN NORTHERN PART OF CYPRUS IN THE CONTEXT OF FREEDOM OF PEACEFUL ASSEMBLY

According to the ‘Guidelines on the Freedom of Peaceful Assembly’ published in 2010 by the ODIHR and the Venice Commission of the Council of Europe, assembly is defined as “the intentional gathering of a number of individuals in a publicly accessible place for a common expressive purpose²⁸” and only peaceful assemblies are protected. Article 21 of the ICCPR also recognises the right of assembly and states that “No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law, and which are necessary in a democratic society in the interests of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others.” Peaceful protests can last as short as 1 hour or as long as several days. Likewise, actions can be pre-planned or spontaneous in response to an emergency situation.

In the ‘constitution’, this right (both to organise and to participate in an assembly) is ‘constitutionally’ guaranteed only for ‘citizens’. This stands in contradiction with the ECHR’s prohibition against discrimination. Similarly, the ECtHR explicitly states that even individuals without legal residence in a country have the right to freedom of assembly.²⁹ In practice, foreigners seem to encounter difficulties when trying to exercise these rights. This problem is particularly prominent among foreign ‘students’ and Kurdish organisations. As observed in the case of **Afrika Newspaper**,³⁰ ‘law enforcement’ responses may vary in practice for local organizations, contingent on the type of organization (union, association, initiative) and the objectives of the assembly.

Case Study: Foreigners’ Right to Peaceful Assembly_VOIS Cyprus Initiative

As mentioned above, VOIS, as an organisation advocating for the rights of international students, initially sought to shape public opinion through the right to peaceful assembly, but their requests were denied by the ‘authorities’. VOIS members elaborated on this issue during an interview, stating, “Indeed, foreigners are generally not permitted to assemble, and despite notifying the ‘authorities’ in advance and complying with all the rules, we have been warned several times that such actions could lead to deportation. We have attempted to organize such assemblies twice before. The first instance was in 2020 in Nicosia against hate speech and racism, during which we experienced pressure and threats. The second instance was in Nicosia in 2021, advocating for international ‘students’ and their deteriorating living conditions. Despite informing the ‘police’ in advance, we were confronted by an excess of 40 officers upon arrival. They threatened us with violence, labelled us an illegal organization, and prevented us from assembling in front of ‘parliament’, relocating us to an intersection instead. As VOIS, we also took part in a march against racism at ‘Eastern Mediterranean University’ in 2020 and a 2022 march on general conditions in the northern part of Cyprus, organized by local CSOs. Despite not organizing this march ourselves, we were told by two plainclothes ‘police officers’ that gatherings of foreigners were essentially illegal”.

²⁸ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly (3rd ed., 2020), 15, para 1.2.

²⁹ Cisse v. France, Application No: 51346/99, 9 April 2022, ECHR.

³⁰ <https://bianet.org/bianet/insan-haklari/193541-kuzey-kibris-ta-afrika-gazetesi-ne-saldiri>

1. PROCESS ON GRANTING AUTHORISATION AND PROVIDING INFORMATION

According to the OSCE/ODIHR Guidelines on Freedom of Peaceful Assembly “Freedom of peaceful assembly is recognized as a fundamental right in a democratic society and should be enjoyed, as far as possible, without regulation. Anything not expressly forbidden by law should be presumed permissible, and those wishing to assemble should not need a permit to do so. A clear and unambiguous presumption in favour of liberty must be established by law.”³¹ The decision to ban a peaceful assembly must always be predicated on clear and verifiable evidence and should be viewed as a last resort.

According to ‘article 4 of chapter 32, the law on meetings and demonstrations’, a petition should be submitted to the ‘district governorate’ in a prescribed manner. If such an assembly or demonstration is not likely to disrupt public order, the ‘district governorate’ may authorise the event under specific conditions. ‘Article 5’ stipulates that meetings and demonstrations in non-public places may be prohibited by an order from the ‘council of ministers’. ‘Article 6’ sets out that the district governorate may halt any demonstration march without a permit, or that violates the conditions of the permit, or order it to disperse. ‘Chapter 32, the law on meetings and demonstrations’ was enacted in 1958 and has only been updated with minor procedural amendments in 1983. Likewise, the ‘supreme court’ has clarified that parts of this ‘law’, which are outdated and fall outside the ‘constitutional’ framework, are no longer applicable. In 2014, the ‘court of appeal’ stated that “In accordance with ‘article 32 of the constitution’, it is a well-known fact that the rules of ‘chapter 32’ regarding the authorisation of meetings and demonstrations are no longer applicable. Although there is no ‘legal regulation’, the ‘district governorate’ is simply notified in writing”.³² Nevertheless, the fact that broad powers remain vested in the ‘law’ indicates potential for misuse and rights restrictions.

In current practice, it is not necessary to obtain a permit for any action, street demonstration or protest. In order to regulate traffic or cater to needs in the proposed area, relevant ‘authorities’ are informed, but permission is not sought. The organisations interviewed, particularly influential trade unions with broad bases, stated that once they decide to take action, they simply announce it to the public and the press, and don’t seek formal notification or permission (with the exception of indefinite strikes). The ‘police’ typically contact them post-announcement for information about the action. If a sound system and/or a platform is to be installed at the protest site, the ‘district governor’s office is responsible for granting permission in accordance with the ‘law on meetings and demonstrations’, and environmental noise is managed under the ‘law on environment’. If permission for the sound system is not granted, particularly by the ‘environmental protection department’, those who install the system are fined and the equipment confiscated. CSOs tend to prefer the practice of notifying the ‘district governorate’. Trade unions and CSOs, during interviews, affirmed that they did not experience any obstruction regarding protests organised through social media and/or websites.

³¹ Venice Commission and OSCE/ODIHR, Guidelines on Freedom of Peaceful Assembly (3rd ed., 2020), 15.
³² Unified ‘court of cassation/penal’: 2-3-4-10-11-12-/2012, D.5/2014.

2. RESTRICTIONS ON THE RIGHT TO PEACEFUL ASSEMBLY

While freedom of peaceful assembly is a fundamental human right, it can be restricted, similar to freedom of association, for reasons of national security, public safety, disorder or crime prevention, health or morals protection, or safeguarding the rights and freedoms of others, as stated in Article 11 (2) of the ECHR and/or Article 21 of the ICCPR. Such restrictions must be mandated by law and be necessary in a democratic society. In the context of the ‘law on right to information’, requests were submitted to the ‘district governorates’ of three major cities, Nicosia, Famagusta, and Kyrenia, where most peaceful assembly protests occurred, seeking information about the applications rejected or restricted in 2022 and the reasons for these rejections or restrictions. However, no response was received from these petitions except from the Kyrenia ‘district governorate’, even after the ‘legally’ stipulated timeframe had been exceeded, thus data on this subject remains limited. According to the data received from the Kyrenia ‘district governorates’, 18 applications were filed in 2022 by citizens of northern part of Cyprus, Turkey, Iran, and the Philippines, 15 of which received approval. Two applications were rejected due to insufficient time to conduct necessary examinations between the application and event dates, and one was rejected for potential adverse effects on traffic. The relevant ‘law’ was adhered to in these three cases. The ECtHR has addressed³³ this practice, noting that while it restricts the freedom of assembly, it is possible to facilitate an assembly in a manner that allows the daily operations of government and other bodies to proceed simultaneously that it is possible to facilitate an assembly in such a way as to allow the daily work of the government and other bodies to take place simultaneously. The Court also acknowledged that public assemblies may temporarily disrupt routine activities such as vehicular and pedestrian traffic, as well as business operations.³⁴

Interviews with organizations exercising the right to peaceful assembly revealed past incidents of ‘police’ intervention during protests in front of the Turkish ‘embassy’ or within the ‘parliament’ hall. It was reported that in actions perceived as critical, crowds could be pushed away from the designated protest area. Requiring meetings to be held at a distance from the target audience may impede the effective exercise of this right.³⁵

It was also reported that the response and intervention towards protesters could become harsher depending on the protest’s subject and target group, such as a demonstration against another country’s prime minister or president. For instance, during a demonstration against the ‘municipalities (amendment) law’ on August 24, 2022, in front of ‘parliament’, a brief brawl erupted when ‘police’ intervened while ‘municipal’ work vehicles were being towed. Similarly, during a protest on September 28, 2022, against the ‘presidential place’ also known as the *Küllüye* project designed by the Turkish Republic, a brief scuffle broke out between ‘police’ and protesters, some of whom had attempted to breach the construction site’s barbed wire fence. Following the protest, two participants were detained, and a lawsuit was filed against them.

³³ (Sergey Kuznetsov / Russia 2008)

³⁴ (Oya Ataman v. Turkey, 2007, para. 38)

³⁵ OSCE Office for Democratic Institutions and Human Rights (ODIHR), Handbook on Monitoring Freedom of Peaceful Assembly (2011)

3. APPROACH OF 'LAW ENFORCEMENT OFFICIALS' IN PEACEFUL PROTESTS

During events organized under the banner of peaceful assembly, 'law enforcement officers', such as the 'police', have both a duty to facilitate and a certain degree of intervention authority. For 'police officers' to fulfil their duties in accordance with international standards, they require training in human rights as well as principles and practices of crowd management.³⁶ It is also crucial that there are clear 'legislative regulations' concerning these issues. 'Law no. 51/1984' contains 'regulations' on the duties and powers of 'law enforcement officers' during protests.³⁷ These 'regulations' declare that 'police' have the duty to identify, recognize, and primarily protect sensitive points from societal and 'state' perspectives, as communicated by their superiors, near or at the site of the action for reasons defined by 'law'.³⁸ As the 'court of appeal' has determined, "Within these powers and duties, the 'police' do not have the authority to close public places for meetings and demonstrations."³⁹ The 'police's' role during a peaceful assembly is to maintain public safety and order while allowing peaceful protesters to continue without disruption. The 'police' may also oversee compliance with relevant 'laws' and 'regulations' and protect participants from interference or violence by non-state actors, like other members of the public or counter-protesters.⁴⁰ They should not impose undue burdens on the organizers or participants of peaceful assemblies.

The relevant 'law' might impose certain restrictions on specific demonstrations and marches, based on broadly interpretable duties such as the establishment of public order. For instance, the 'supreme court' has acknowledged that the 'police' prevented trade unions protesting in front of the 'embassy' of the Republic of Turkey from approaching the 'embassy's' door and laying a black wreath, citing the bomb attacks that had occurred in Turkey at the time as a valid reason for protecting the 'embassy' building. Thus, the 'court' stated that it was "not easy to say" that the 'police' had violated the right to demonstrate and march.⁴¹ Therefore, although the 'police' do not explicitly possess powers to prevent or restrict peaceful protests, if the powers outlined in the 'law' are broadly interpreted, the 'police' can intervene and limit peaceful protests in cases they perceive as matters of 'public' security and peace. In demonstrations, there should be a practice that isolates and provides security without holding peaceful protesters on the street accountable for the attitudes and behaviours of those prone to violence; individuals should only be held responsible for their own actions.⁴²

Interviews with trade unions revealed that organizations, particularly unions, tend to arrange for their own security when planning large-scale and bi-communal demonstrations. This suggests a lack of trust in the 'police's' ability to ensure the safety of protesters. The respondents argued that 'law enforcement officers' often fail to fulfil this duty adequately. On the contrary, it was suggested that they provoke the assembled masses during protests where economic-democratic demands are raised and that they are more likely to intervene in meetings that contradict the views of the 'authorities'. Union officials attributed the absence of such examples in recent history to the common sense of the protesting masses. Nevertheless, they noted that in the event of a threatening report, they inform the 'police'. ECtHR's judgment emphasized the responsibility to protect activists exercising their right to peaceful assembly from aggressive acts of others.⁴³ The interviewed unions also added that, as a positive development, the 'police' have recently started to engage in dialogue with them about the protests but underlined that this occurs on the initiative of the parties involved.

During discussions regarding the disproportionate use of force by 'law enforcement officers', interviewees highlighted the incidents that occurred during the then Prime Minister of the Republic of Turkey, Recep Tayyip Erdoğan's visit to the island on 19 July 2011.⁴⁴ Generally, both protesters and 'police officers' who attend protests are familiar with each other due to the small size of the community. This familiarity is the primary reason for the lack of violent clashes between the 'police' and protesters. However, in this specific case, the intervening 'police officers' were brought from outside Nicosia. Problems have also arisen from interventions based on the banners used in protests. In this regard, 'law enforcement officers' may also violate freedom of expression during actions when they deem it necessary.

Based on the information collected from interviews, media monitoring, and other sources, it was identified that 39 peaceful meetings and demonstrations were organized in the northern part of Cyprus in 2022. The most attended event in 2022 was a general strike and demonstration in front of the 'prime ministry' on April 1st, 2022. Thousands participated, rallying under the slogan "No to Social Destruction and Poverty". It was noted that the 'police' deployed extensive security measures at the 'prime ministry' building. There were no disturbances, outbreaks, or acts of violence, and the 'police' did not intervene in the demonstration. During speeches, the chairperson of KTAMS claimed that internet and telephone access had been blocked by jammers. However, there was no further clarification or follow-up on this issue. It was suggested that the disruption might have been due to insufficient capacity from telephone operators. On June 12-13, a "24 Hours for Freedom" demonstration was held in front of the 'parliament'. Organized by the Turkish Cypriot Journalists Union and supported by numerous political parties and civil society, the event remained peaceful. At one point, some protesters attended the 'plenary of the parliament' as observers. After staging a silent protest by taping their mouths and standing up, they exited the 'parliament' building without any problem or intervention. As a result of these actions, the relevant draft 'laws' were shelved. Another large-scale demonstration occurred on August 24th, 2022 in front of the 'parliament'. Backed by trade unions, civil society, and citizens, the protest was against the amendments to the 'law on municipalities'. Municipal workers from all parts of the northern part of Cyprus travelled to the 'parliament' to participate in the demonstration. During this demonstration, a bus carrying municipal workers and 'mayors' from the Trikomo/Iskele was briefly stopped before being allowed to proceed. In addition, during the trade unions' demonstration in front of the 'parliament', an attempt was made to tow 'municipal' vehicles. The 'police' intervened, leading to a brief scuffle. In 2022, a protest organized by KTAMS at the 'public service commission' led to unauthorized audio recordings taken in the room where protesters had requested a meeting. The 'police' were called before the meeting took place, and protesters were escorted out under 'police' supervision (at their insistence), and their names were individually recorded. They were then taken to the Nicosia 'police headquarters' and an investigation was initiated against them. However, these criminal complaints did not progress further and the 'public service commission' subsequently backed down.

In another incident, six individuals were arrested during a manure dumping protest organized by the chairperson of the Union of Animal Producers and Breeders and other producers. This took place in front of the 'presidential' building and the 'milk industry board' (SÜTEK) on 12 May 2022. On August 5th, two major teachers' unions organized a joint protest, in front of the 'ministry of national education', against a 'high advisory board' meeting. Union members attempted to enter the 'high advisory board' meeting with their advisers but were denied entry by the 'police'. The unions rejected the 'ministry's' condition that they could attend the meeting with only six individuals and ended the protest with the declaration that they would pursue the matter 'legally'. Following the protest, 22 teachers were summoned to give statements to the 'police'.

35 OSCE Office for Democratic Institutions and Human Rights (ODIHR), Handbook on Monitoring Freedom of Peaceful Assembly (2011)

36 '51/1984 Polis Örgütü (Kuruluş, Görev ve Yetkileri) Yasası, Madde 8(20), 85(1), 85(5)(a), 85(6), 92(4)'

37 Birleştirilmiş Yargıtay/Çeza: 2-3-4-10-11-12-/2012, D.5/2014.

38 Birleştirilmiş Yargıtay/Çeza: 2-3-4-10-11-12-/2012, D.5/2014.

39 OSCE Office for Democratic Institutions and Human Rights (ODIHR), Handbook on Monitoring Freedom of Peaceful Assembly (2011)

40 Yüksek İdare Mahkemesi 184/2016, D.2/2020.

41 (AIHM, Ezelin vs Fransa, 1991)

42 (Ouranio Toxo ve Diğerleri / Yunanistan, 2005, para. 43)

44 <https://gazeddakibris.com/polis-siddetine-yabanci-degiliz-19-temmuz-2011/>

'Chapter 154 the criminal law' addresses the offence of unlawful assembly, stipulating a punishment of up to one year's imprisonment. In one of its judgments on this topic, the 'court' interpreted these articles to apply only to individuals who engaged in violent behaviour, distinguishing those who gathered peacefully and without weapons.⁴⁵ While the 'court's approach aligns with international standards and the 'constitution', it is not binding as 'case law' because it's a lower 'court' judgement. This means that the risk of individuals being subjected to criminal prosecution and investigation processes in cases where broad interpretations of these articles are adopted remains. Furthermore, the process of 'prosecution', 'investigation', and 'trial', which continues until a final 'court' decision is reached, carries tangible and intangible consequences. These can dissuade groups wishing to exercise their freedom of expression through peaceful assembly. Interviewees stated that 'court' proceedings reduced the participation rate of activists and the recurring 'prosecution' of protest organizers had a deterrent effect.

45 <https://gazeddakibris.com/polis-siddetine-yabanci-degiliz-19-temmuz-2011/>

CONCLUSION AND RECOMMENDATIONS

In the northern part of Cyprus, the freedoms of association and peaceful assembly are enshrined as fundamental rights in the 'constitution'. However, while the 'regulations' and practices concerning access to these rights are broadly in line with international standards, they are limited to 'citizens', thus placing substantial restrictions on foreigners. These limitations are found in both the 'constitution' and in domestic 'legislation'. Therefore, a significant distinction exists between foreigners and citizens in terms of fundamental rights and freedoms. This dichotomy contradicts international conventions that have been incorporated into domestic 'legislation', as well as the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), which state that these rights apply without discrimination between foreigners and nationals. Furthermore, the wording used to restrict rights, such as 'public morality' and 'for similar reasons' allow for broad interpretation and could result in access to these rights being curtailed. Regarding freedom of association, the 'constitution' does not provide for a general "right and freedom of association" that would encompass various forms of civil society organisation. Different organisational forms such as associations, foundations, and trade unions are regulated separately, and forms of organisation like initiatives that operate without registration are not included. It is crucial that all organisational forms are regulated in a single, inclusive article that guarantees equal rights and that the rights of all civil society organisations are covered by legal protection. The 'constitution' stipulates that "associations may be dissolved by a 'judge's decision in cases provided for by 'law'". The key issue here is the provision that allows "district governorates to suspend the activities of CSOs for an indefinite period until a 'judge' makes a decision". The phrase "in cases where a delay is considered objectionable" is vague and poses a threat to freedom of association by opening the door to arbitrariness.

Key findings and recommendations in terms of the relevant local 'legislation' and practices concerning the establishment and operation of associations:

- The 'law on associations', amended in 2016, generally facilitates the creation of associations without imposing severe restrictions that could drastically impair the achievement of their goals and activities. However, various 'regulations' on fundraising, tax exemptions, and financial reporting, being 'legislated' under different 'laws' induce complications and inconsistencies in their application by both CSOs and 'authorities', negatively impacting the enabling environment for civil society. The consolidation or reorganisation of all 'regulations' on associations under a single 'law', taking into account the function and structure of civil society along with the presumption of good faith in favour of the legal formation, objectives and activities of associations, and aligning 'regulations' with international standards would eliminate restrictions on access to this right.
- In general, interviews with decision-makers and implementing bodies reveal tendencies towards restricting rights. Decisions and practices are formed under the assumption that associations may harbour malevolent intentions. It is crucial in the context of access to freedom of association that these considerations are evaluated within the premise of good faith towards the legal formation, objectives, and activities of associations, and that corresponding 'laws' and policies are formulated accordingly.
- The right to establish associations and to become a member is only recognised for 'citizens' who have completed the age of 18. As for foundations, the relevant 'law' stipulates the requirement of belonging to a religion. The 'law' on associations incorporates restrictions for foreigners, foreign associations/apex organisations and children. Restrictive provisions should be removed from the relevant 'laws' and 'regulations' based on nationality or religion should be abolished. Similarly, the relevant 'law' must be revised in a way that paves the way for children's freedom of association.
- There are no foreign associations registered in the northern part of Cyprus. For foreign associations, there are substantial restrictions, such as additional bureaucracy and authorisation, on establishing an association, becoming a member, the objectives of the association, reporting and access to funds. This discrimination also applies to freedom of assembly; as it is stated that "foreigners may not organise or participate in peaceful assemblies". Individuals belonging to these disadvantaged groups, who come to the northern part of Cyprus to work or study, or as refugees, and who are considerable in number, have the right to organise, along with other rights. The freedoms of association, peaceful assembly and expression need to be reorganised in the relevant legislation in a holistic manner adhering to the principle of equality.
- The 'legislation' only acknowledges formal associations and does not extend to informal (unregistered) organisations. It is particularly important that such organisations, often formed by socio-economically disadvantaged groups facing difficulties accessing funds, are recognized in a manner that allows their operation without being deemed illegal.
- The documents required for the registration process do not significantly inhibit the freedom of association. However, the information required to be included in the statutes of associations is very broad. In particular, it is objectionable that the residence addresses and occupational information of the founders are mandatory. Furthermore, the obligation to show an address can be challenging for a newly organised group. This practice should be re-evaluated and appropriate adjustments should be made, especially in the digital age where the necessity of a physical location to conduct activities has lost its importance.

- Although not stipulated in the 'law', the 'district governorate' sends association statutes to the 'attorney general's office for review purposes. Due to the scarcity and inadequacy of the 'legal' staff, the review of the association statutes sent to the 'attorney general's office could exceed the stipulated 60-day timeframe. In this regard, it would be appropriate to make the necessary amendments in the 'law' and to preferably shifting 'legal' controls to the 'ministry' or to amend the relevant 'law' in order to regulate this responsibility assigned to the 'attorney general's office.
- Regarding oversight, although the 'law' emphasizes the importance of internal supervision, the inspection authority granted to 'district governorates' is contentious. This authority extends to accessing all information, documents, and physical premises belonging to the association. While such extensive oversight is not envisioned for private companies, it is imperative to re-evaluate these provisions for CSOs, align them with predetermined and international standards, and implement regulations that respect the autonomy of associations.
- In practice, the competent 'authorities' for associations are the 'ministry of interior', the 'central district governorate' and the relevant regional 'district governorates'. Interviews with both civil society and the competent 'authorities', highlighted problems stemming from the lack of human resources in 'district governorates' and underlined regional disparities. Registration and reporting issues, protracted registration processes sometimes surpassing the 'legal' period, are due to the lack of clarity in the 'law'. It is anticipated that the guideline document to be developed with the collaborative work of civil society and decision-makers on the 'law on associations' will resolve these disparities in practice.

Key findings and recommendations concerning access to finance, a crucial element for the sustainability and effectiveness of associations:

- Access to financial resources and consequently, the sustainability of CSOs is a significant challenge. There are 1185 registered associations in the northern part of Cyprus. Almost only half of these are active. The 'legal' framework is complex as it is regulated in many different 'laws' and is not enabling fundraising.
- Public funding for civil society is severely limited. Access to public funds or the scarcity of public support is constrained not just by the variety of funds and funding bodies, but also by the budgetary allotments for such activities. To strengthen civil society, regarded as a key pillar of democracy, 'state' budgets should be planned in collaboration with civil society to allocate more resources. Furthermore, these resources should be assigned based on pre-established criteria and should be distributed in a transparent, accountable manner, contrary to current practices.
- International funding is limited due to the de facto situation in the northern part of Cyprus. The EU is the international organisation that regularly provides the largest amount of funding to civil society. Although limited, there are a variety of funding sources provided by non-EU funding organizations, such as the United Nations (UN) High Commissioner for Refugees fund, EEA Grants, the Embassy of the United States, the French Embassy, etc. in varying amounts and for varying purposes. No limitations exist on CSOs' access to funding, but foreign associations are subject to an approval process.
- The existing 'regulations' regarding fundraising, lotteries, and raffles -which are significant income sources for CSOs- apply not just to associations, but also to any individual or legal entity wishing to collect donations. These 'regulations' require authorization from 'institutions' like 'district governorates', the 'police', and 'municipalities' and include severe penalties such as imprisonment. It is suggested that separate 'regulations' be enacted for CSOs which, due to their organizational structure, derive substantial portions of their income from donations, operate as non-profits, and contribute to the overall societal good. Under the proposed 'regulations', unlike the current rules, a CSO aiming to collect aid should not be subject to a permit process by relevant 'authorities', should not face harsh penalties such as imprisonment, and different types of income should not be subject to the same 'regulations'. In this context, it should suffice for the 'district governorate' to validate the donation receipts of an association, provided the association is registered and includes these donations in its financial reports. Additionally, modern technology and online donation mechanisms should be considered in the new 'regulations'.

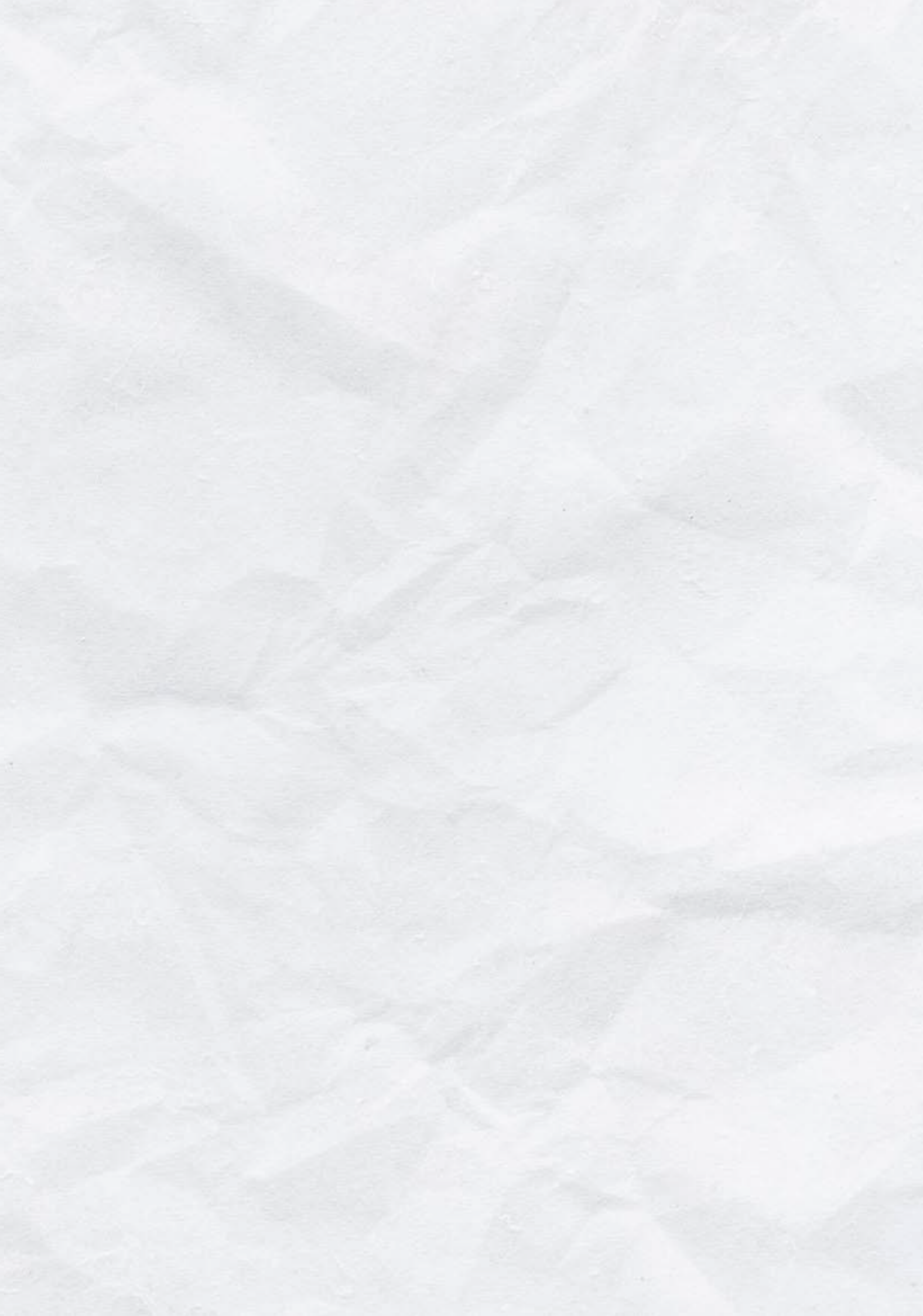
- Registered CSOs are exempt from ‘corporate taxes’, unless they have an economic enterprise of their own. However, VAT, ‘customs’ and ‘withholding taxes’ are also mandatory for CSOs. The ‘law’ only provides exceptions for specific types of organisations established for purposes approved by the ‘council of ministers’. The same issues apply to ‘tax’ incentives for donors. Particularly noteworthy are the exceptions under the ‘law on charities’ for organisations approved by the ‘council of ministers’. Charity status should be either abolished or the criteria and procedures for obtaining such status should be clearly defined. In addition, the approving ‘authority’ should be a more technical ‘authority’ rather than a high-level political body such as the ‘council of ministers’. These ‘regulations’ restrict the development of civil society and create inequalities among different types of civil society organisations. It is essential for the development of civil society to make arrangements to facilitate CSOs’ access to resources by removing obstacles to such access.

The findings and recommendations regarding the involvement of civil society in decision-making processes, which is essential for a functional democracy:

- In practice, the interaction between civil society and public organisations is limited and generally requires initiative and persistence from the civil society.
- Major issues include the prolonged and complex process of ‘legislative’ amendments, frequent changes in ‘public officials’ and ‘authorities’ due to the ‘country’s volatile politics, and the impossibility of effective consultation. In this context, it’s urgent to develop criteria and standards for consultation processes with CSOs and to establish focal points in all decision-making units to build enhanced and sustainable relations with civil society.
- Civil society’s participation in ‘legislative’ processes is stipulated in the ‘parliament’s ‘internal regulations’. However, the time allocated for submitting comments is short and extending this period would facilitate more effective participation. Moreover, as stated in the ‘law’ and observed in practice, the involvement of civil society depends on the initiative of ‘legislators’. This process should be restructured to be more binding and to enable the participation of civil society.
- There is limited local ‘legislation’ regarding participation and only 15 ‘laws’ provide for it. The conditions and content of this cooperation are not specified in any of these ‘laws’. The terminology used is non-committal, such as “encourage” or “ensure cooperation”. Some ‘laws’ include provisions for CSOs to be part of ‘advisory boards’ established under the respective ‘law’. The participation of CSOs in these advisory bodies is not guaranteed, leaving the ‘administration’ with considerable discretion in this matter.

The key findings and recommendations regarding freedom of peaceful assembly:

- The current ‘legislation’ surrounding the freedom of peaceful assembly is flawed. ‘Chapter 32 the law on assembly and demonstrations’ of 1958 and the article of the ‘criminal law’, entered into force in 1929, which defines the offences of unlawful assembly and rioting, haven’t been substantially amended. The ‘law on assembly and demonstrations’ contains provisions that are backward in democratic terms, such as requiring demonstrations and/or marches to obtain permission from the ‘district governorate’, which can also ban them. The ‘criminal law’, on the other hand, contains broad criteria as to which assemblies can be considered illegal, thereby discouraging the exercise of this right. These ‘laws’ need democratic revision in accordance with international standards. ‘Law enforcement agencies’ can interpret these ‘legal’ articles broadly, potentially leading to activists being subjected to ‘criminal prosecution’ and ‘investigative procedures’, as observed in several cases during 2022. The process of ‘prosecution’, ‘investigation’, and ‘trial’, lasting until the ‘court’ reaches a decision, bears both tangible and intangible repercussions, thus dissuading groups intending to express their freedom through peaceful assembly.
- These shortcomings in the existing legal texts are recognised by the ‘supreme court’, the ‘court of appeal’ and the lower ‘courts’. The ‘supreme court’ has made it clear that parts of the ‘constitution’ that fall outside its framework are not applicable. There are rulings of ‘court of appeal’ stating that although there is no ‘legal regulation’, only written notification is made to the ‘district governorate’. This makes it somewhat easier to exercise this right in practice. However, the fact that the exercise of the right is not protected by ‘laws’ regulated according to international standards poses a serious risk for rights violations.
- According to current practice, there is no need to obtain a permit for any action, street demonstration or protest. Restrictions may vary depending on the nature of the action, the organizing entity, and the location. While organisations with substantial societal standing, such as trade unions and associations, can organize demonstrations without even notifying the ‘authorities’, smaller-scale organizations may need to obtain permission. There have been instances where ‘district governorates’ have refused to grant permissions, particularly for demonstrations and protests organized by foreigners. This right must be regulated by ‘law’ and equally recognized for all individuals and ‘legal entities’. Any restrictions must be ‘legally’ prescribed and deemed necessary in a democratic society.



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